



Docket No.: 243444US2

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

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RE: Application Serial No.: 10/673,177
Applicants: HIROAKI HAZAMA ET AL
Filing Date: September 30, 2003
For: NONVOLATILE SEMICONDUCTOR MEMORY
DEVICE
Group Art Unit: 2824
Examiner: Nguyen, V.

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF
HIROAKI HAZAMA ET AL

SERIAL NO: 10/673,177

FILED: SEPTEMBER 30, 2003

FOR: NONVOLATILE
SEMICONDUCTOR MEMORY DEVICE

:
: EXAMINER: NGUYEN, V.

:
: GROUP ART UNIT: 2824

PROVISIONAL ELECTION

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SIR:

In response to the election requirement dated August 11, 2005, Applicants elect Group I, Claims 1-3 and 8, drawn to dummy cell, classified in class 365, subclass 185.2, for further examination on the merits. Applicants reserve the right to file one or more divisional applications directed to the non-elected invention.

Furthermore, while the Election Requirement asserts that the application contains claims to patentably distinct inventions, MPEP § 803 states the following:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Although the outstanding Official Action identifies different search classifications, it is believed that the claims of the present application would have to be searched in a handful of sub-classes. Furthermore, since electronic searching is commonly performed, a search may be made of a large number of, or theoretically all, subclasses without substantial additional effort. Accordingly, Applicants respectfully traverse the Restriction Requirement on the

grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, whereas it would be a serious burden on Applicants to prosecute and maintain separate applications.

Therefore, it is respectfully requested that the requirement to elect a single group be withdrawn, and that a full examination on the merits of Claims 1-9 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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